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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,776	02/17/2004	Jean-Yves Daniel	D-7886	2748

7590 07/29/2005

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Law Department
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EXAMINER

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tata

Office Action Summary

Application No.

10/780,776

Applicant(s)

DANIEL, JEAN-YVES

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13 and 15 is/are rejected.
- 7) ☒ Claim(s) 12 and 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 7/19/04.
- 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 7, 9-11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Oliff (4,192,540). Oliff discloses a carton for accommodating a plurality of containers, the carton being tubular in structure (Figure 1, one on each side of the carton), the carton comprising a top (6, 8, 10, 12, 14, 16) panel and a base (1) panel opposing the top panel. The top panel including inner (8, 12, 16) and outer (6, 10, 14) overlapping panel portions and a retaining structure (36, 39) depending from the inner panel portion of the top panel. The retaining structure comprising an engagement panel (12) with an engaging edge (37-39) to engage a container and at least one opening (34-36) for receiving part of a container and the engaging edge disposed at an edge of the at least one opening. As to claims 2-3, Oliff discloses the base panel comprises apertures (40-45) and at least one foldable retaining tab (46-50). As to claim 4, Oliff discloses each of the apertures is defined by at least one pair of the retaining tabs. As to claim 9, Oliff discloses the retaining structure further comprises a connector panel (16) for hingedly interconnecting the engagement panel (12) and the inner panel portion of the top panel.

As to claim 10, Oliff discloses the retaining structure comprises an opening (34-36) and a lower edge of the opening comprises an engaging edge (37-39). As to claim 11, Oliff the retaining structure comprises a connector panel (12) hingedly connected to and extending downwardly from a free edge (13) of the inner panel portion and an engagement panel (16)

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hingedly connected to a lower edge of the connector panel and the opening is formed at least in part in the connector panel.

As to claim 15, Oliff discloses a blank comprising a first panel (1) having a plurality of apertures (40-45) and each aperture defined in part by a foldable retaining tab (46-50), a second panel (8) spaced from the first panel by an intermediate panel (3) and a retention structure connected to the second panel. The retention structure having an opening (34-36) and an engaging edge.

3. Claims 1-4, 7-11, 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Graser (3,767,041). Graser discloses in the embodiment of Figures 6-7, a carton for accommodating a plurality of containers, the carton being tubular in structure (Figure 7, one on each side of the carton), the carton comprising a top (8', 9') panel and a base (1) panel opposing the top panel. The top panel including inner (8', 16', 12', 17') and outer (9', 19', 13') overlapping panel portions and a retaining structure (31', 33') depending from the inner panel portion of the top panel. The retaining structure comprising an engagement panel (16') with an engaging edge (33') to engage a container and at least one opening for receiving part of a container and the engaging edge disposed at an edge of the at least one opening. As to claims 2-3, Graser discloses the base panel comprises apertures (20, 21) and at least one foldable retaining tab (22, 23) (see Figure 1). As to claim 4, Graser discloses each of the apertures is defined by at least one pair of the retaining tabs (22, 23). As to claim 8, Graser discloses the engagement panel (16', 12', 17') disposed between a container and an adjacent container. As to claim 9,

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Graser discloses the retaining structure further comprises a connector panel (12') for hingedly interconnecting the engagement panel (16') and the inner panel portion of the top panel.

As to claim 10, Graser discloses the retaining structure comprises an opening (between the engagement edge 33 and a flap 31) and a lower edge of the opening comprises an engaging edge (33). As to claim 11, Graser the retaining structure comprises a connector panel (16') hingedly connected to and extending downwardly from a free edge (10) of the inner panel portion and an engagement panel (12', 17') hingedly connected to a lower edge of the connector panel and the opening is formed at least in part in the connector panel.

As to claim 13, Graser discloses the retaining structure comprises a spacer strip (16', 12', 17') disposed between two adjacent ones of the rows of the articles and the strip having one side edge (33) for engagement with the articles in one of the adjacent rows and the other side edge (edge of panel 17') for engagement with the articles in the other of the adjacent rows (column 5, lines 47-65).

As to claim 15, Graser discloses a blank comprising a first panel (1) having a plurality of apertures (20, 21) and each aperture defined in part by a foldable retaining tab (22, 23), a second panel (8) spaced from the first panel by an intermediate panel (2) and a retention structure connected to the second panel. The retention structure having an opening (defined by an engagement edge 33 and the flap 31) and an engaging edge.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-5 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oliff (4,192,540) or Graser (3,767,041) in view of The International Publication Number WO 98/49071 to Saulas et al. (hereinafter Saulas'071). Oliff or Graser discloses the carton as above having all the limitations of the claims. To the extent that Oliff or Graser fails to show the carton being tubular in structure, Saulas'071 shows a carton for accommodating a plurality of containers and the carton being tubular in structure. It would have been obvious to one having ordinary skill in the art in view of Saulas'071 to modify the carton of Oliff or Graser so the carton is tubular in structure for better retaining the containers.

As to claim 5, Oliff or Graser fails to show the at least one retaining tab comprises a notch.

Saulas'071 show a base panel (16) comprises apertures for containers and each aperture defined by at least one foldable retaining tab (84, 92) and the retaining tab has a notch (88). It would have been obvious to one having ordinary skill in the art in view of Saulas'071 to modify the at least one retaining tab of Oliff or Graser so the at least one retaining tab includes a notch for better securing the container.

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7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of The Great Britain Patent Number 2,100,217 to Coudoin (hereinafter Coudoin). Oliff or Graser further fails to show the engaging edge comprises an engaging tab projected into the opening. Coudoin shows an engagement panel (12) comprising an engaging tab (L) projected into an opening (27) and the engaging tab comprises an engaging edge (Figure 1). It would have been obvious to one having ordinary skill in the art in view of Coudoin to modify the engaging edge of Oliff or Graser so the engaging edge comprises an engaging tab projected into the opening for better securing the container.

Allowable Subject Matter


8. Claims 12 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (571) 273-8300 for Formal papers and After Final communications.

lkb
July 27, 2005



Luan K. Bui
Primary Examiner